

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

BHAGYAM AYALUR, SP 2014-LE-164 Appl. under Sect(s). 3-303, 8-305, and 8-914 of the Zoning Ordinance to permit a home child care facility, and reduction in minimum yard requirements based on error in building location to permit one accessory storage structure to remain 2.0 ft. and deck 0.0 ft. from one side lot and another accessory storage structure to remain 2.0 ft. from other side lot line. Located at 4811 Eaton Pl., Alexandria, 22310, on approx. 27, 832 sq. ft. of land zoned R-3. Lee District. Tax Map 82-3 ((17)) (G) 41. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The Board has a favorable staff recommendation, and adopts the rationale in general.
3. The applicant has read, understands, and concurs with the proposed development conditions.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and

- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This approval is granted to the applicant, Bhagyam Ayalur, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 4811 Eaton Pl., and is not transferable to other land.
- 2. This special permit is granted only for the home child care use, deck located 0.3 feet from a side lot line, and accessory storage structure located 2.7 feet from a side lot line, as indicated on the plat entitled, "Plat Showing House Location on Lot 41, Section 4, Block G, Sunny Ridge Estates," prepared by Thomas G. Lutke, L.S., dated March 25, 2015, and approved with this application, as qualified by these development conditions.
- 3. A copy of this Special Permit shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. The hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday. The applicant shall continue to operate with her approved hours of operation (8:00 a.m. to 6:00 p.m.) until granted a revised license approving the requested hours of operation (7:00 a.m. to 6:00 p.m.).

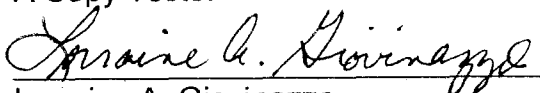
5. The dwelling that contains the child care facility shall be the primary residence of the applicant.
6. Excluding the applicant's own children, the maximum number of children on site at any one time shall be twelve.
7. A maximum of two nonresident employees at a time, whether paid or not for their services, may be involved in the home child care facility, limited to the hours of 7:00 a.m. to 6:00 p.m.
8. There shall be no signage associated with the home child care facility.
9. All drop-off and pick-up activities shall occur in the driveway.
10. Any portions of the dwelling associated with the home child care facility that are used as a children's sleeping or rest area shall be located in a room with an operable exterior window, door or similar device that provides for a means of escape and access for rescue in the event of an emergency. Such emergency escape and rescue openings shall be of the dimension and size specified by the Virginia Uniform Statewide Building Code.
11. The child care facility shall be operated in accordance with Chapter 30 of the County Code, entitled "Minimum Private School and Child Care Facility Standards."
12. The approval of the use is contingent upon maintenance of a state-issued family day home license that permits the number and ages of children being cared for at the home child care facility.
13. All sheds shall remained locked during the hours of operation of the home child care facility.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

Mr. Byers seconded the motion, which carried by a vote of 7-0.

A Copy Teste:



Lorraine A. Giovinazzo  
Clerk to the Board of Zoning Appeals